THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.6411 of 2006

Dated: 31.03.2006

Between:

E. Prasad, S/o Gundaiah, Driver, E. 301183, resident of H.No.3-569, Hanuman Mandir, Bazar Wadi, Asifabad,Adilabad District.

.... PETITIONER

AND

The Regional Manager, APSRTC, Adilabad Division, Adilabad, Adilabad District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.6411 of 2006

Order:

This writ petition is filed seeking a Mandamus declaring the action of respondent No.3 in issuing the proceedings dated 25.02.1999, withholding the annual increment of the petitioner for a period of two years with cumulative effect, as illegal and arbitrary.

The case of the petitioner is that he was appointed as Driver in the respondent-Corporation on 19.11.1987. While so, based on the complaints dated 08.04.1998, given by one T. Shankar, Conductor and G . S . Narayana, Security Guard of respondent-Corporation, the respondent-Corporation, after conducting a preliminary enquiry, issued charge sheet dated 14.10.1998 to the petitioner stating that he assisted T . Shankar in assaulting K.S. Rao, Conductor and others and created nuisance in Depot premises, for which he submitted explanation denying the charges framed against him. Respondent No.3, without conducting any regular departmental enquiry and without affording any opportunity, passed the impugned order imposing punishment of withholding the annual increment for a period of two years with cumulative effect. Aggrieved by the same, the petitioner filed an appeal before respondent No.2 and the same was rejected by the order, dated 30.06.2005, hence, he filed the present writ petition.

Heard the learned counsel for both the parties and perused the material available on record.

Learned counsel for the petitioner contends that stoppage of increments of an employee with cumulative effect is a major penalty, and the same cannot be imposed without conducting regular departmental

enquiry as contemplated under the APSRTC Employees' (CC&A) Regulations (for short 'the Regulations'). In support of his contention, learned counsel relied on the judgment of the Supreme Court in "***Kulwanth Singh Gill v. State of Punjab***[1]".

It is an admitted fact that respondent No.3 imposed punishment of deferment of annual increment for a period of two years with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The apex Court in "***Kulwanth Singh Gill's Case*** (1 supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual increment for a period of two years was imposed without conducting regular departmental enquiry violating the judgment of the apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside leaving it open to respondent No.3 to pass fresh orders. But, to avoid further litigation in the matter, having regard to the nature of punishment, both the counsel agreed that instead of remitting the matter to respondent No.3 for passing fresh orders, prayed that the impugned order be treated as one imposing stoppage of annual increment without cumulative effect.

In view of the admitted stand taken by the learned counsel for the respective parties, the impugned order dated 25.02.1999, passed by respondent No.3, imposing punishment of stoppage of annual increment for a period of two years with cumulative effect, is modified to that of stoppage of annual increment without cumulative effect. The petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only. No costs.

N.V. RAMANA, J.

Date: 31.03.2006
Nsr/Ksr

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1 1991 Supp (1) SCC 504